



General Assembly

Substitute Bill No. 6481

January Session, 2009

* HB06481BA 031609 *

AN ACT CONCERNING THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (7) of section 8-265cc of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2009*):

4 (7) "Financial hardship due to circumstances beyond the
5 mortgagor's control" means: (A) A significant reduction [of at least
6 twenty-five per cent] of aggregate family household income [which
7 reasonably cannot be or could not have been alleviated by the
8 liquidation of assets by the mortgagor] as determined by the
9 Connecticut Housing Finance Authority, including, but not limited to,
10 a reduction resulting from (i) unemployment or underemployment of
11 one or more of the mortgagors; (ii) a loss, reduction or delay in receipt
12 of such federal, state or municipal benefits as Social Security,
13 supplemental security income, public assistance and government
14 pensions; (iii) a loss, reduction or delay in receipt of such private
15 benefits as pension, disability, annuity or retirement benefits; (iv)
16 divorce or a loss of support payments; (v) disability, illness or death of
17 a mortgagor; (vi) uninsured damage to the mortgaged property which
18 affects liveability and necessitates costly repairs; or (vii) expenses
19 related to the disability, illness or death of a member of the

20 mortgagor's family, but is not related to accumulation of installment
21 debt incurred for recreational or nonessential items prior to the
22 occurrence of the alleged circumstances beyond the mortgagor's
23 control in an amount that would have caused the mortgagor's total
24 debt service to exceed sixty per cent of aggregate family income at that
25 time; or (B) a significant increase in the dollar amount of the periodic
26 payments required by the mortgage or of other housing-related costs,
27 including, but not limited to, the cost of heat or utilities.

28 Sec. 2. Subsection (b) of section 8-265dd of the general statutes is
29 repealed and the following is substituted in lieu thereof (*Effective July*
30 *1, 2009*):

31 (b) Notwithstanding any provision of the general statutes, or any
32 rule of law to the contrary, on and after July 1, 2008, no judgment of
33 strict foreclosure nor any judgment ordering a foreclosure sale shall be
34 entered in any action instituted by the mortgagee to foreclose a
35 mortgage commenced on or after such date, for the foreclosure of an
36 eligible mortgage unless (1) notice to the mortgagor has been given by
37 the mortgagee in accordance with section 8-265ee, as amended by this
38 act, and the time for response has expired, and (2) a determination has
39 been made on the mortgagor's application for emergency mortgage
40 assistance payments in accordance with section 8-265ff, as amended by
41 this act, or the applicable time periods set forth in sections 8-265cc to 8-
42 265kk, inclusive, as amended by this act, have expired, whichever is
43 earlier. For purposes of this section and sections 8-265ee to 8-265kk,
44 inclusive, as amended by this act, an "eligible mortgage" is a mortgage
45 which satisfies the standards contained in subdivisions (1), (3), (8) and
46 (10) to (13), inclusive, of subsection [(d)] (e) of section 8-265ff, as
47 amended by this act.

48 Sec. 3. Section 8-265ee of the general statutes is repealed and the
49 following is substituted in lieu thereof (*Effective July 1, 2009*):

50 (a) On and after July 1, 2008, a mortgagee who desires to foreclose
51 upon a mortgage which satisfies the standards contained in

52 subdivisions (1), (3), (10), (11) and (12) of subsection [(d)] (e) of section
53 8-265ff, as amended by this act, shall give notice to the mortgagor by
54 registered, or certified mail, postage prepaid at the address of the
55 property which is secured by the mortgage. No such mortgagee may
56 commence a foreclosure of a mortgage prior to mailing such notice.
57 Such notice shall advise the mortgagor of his delinquency or other
58 default under the mortgage and shall state that the mortgagor has sixty
59 days from the date of such notice in which to (1) have a face-to-face
60 meeting, telephone or other conference acceptable to the authority
61 with the mortgagee or a face-to-face meeting with a consumer credit
62 counseling agency to attempt to resolve the delinquency or default by
63 restructuring the loan payment schedule or otherwise, and (2) contact
64 the authority, at an address and phone number contained in the notice,
65 to obtain information and apply for emergency mortgage assistance
66 payments if the mortgagor and mortgagee are unable to resolve the
67 delinquency or default.

68 (b) [If] Except in cases in which the mortgagee refuses to meet with
69 the mortgagor, if the mortgagor fails to meet with the mortgagee or
70 comply with any of the time limitations specified in the notice as
71 provided in subsection (a) of this section, or if the mortgagor's
72 application is not filed by the date thirty days after the date of any
73 default in payment under an agreement as provided in subsection (c)
74 of this section or if the mortgagor's application for emergency
75 mortgage assistance payments is not approved by the date thirty
76 calendar days after the date of receipt of the mortgagor's application in
77 accordance with the provisions of section 8-265ff, as amended by this
78 act, the foreclosure of the mortgagor's mortgage may, at any time
79 thereafter, except as provided in subsection (e) of this section, continue
80 without any further restriction or requirement under the provisions of
81 sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided
82 the mortgagee files an affidavit with the court stating the notice
83 provisions of subsection (a) of this section have been complied with
84 and that either the mortgagor failed to meet with the mortgagee or
85 failed to comply with all of the time limitations specified in the notice

86 as provided in subsection (a) of this section or that the mortgagor's
87 application for emergency assistance payments was not approved by
88 the date thirty calendar days after the date of receipt of the
89 mortgagor's application, or that a determination of ineligibility was
90 made.

91 (c) If, after a face-to-face meeting, telephone or other conference
92 acceptable to the authority, as provided in subsection (a) of this
93 section, the mortgagor and the mortgagee reach an agreement to
94 resolve the delinquency or default and, because of financial hardship
95 due to circumstances beyond the mortgagor's control, the mortgagor is
96 unable to fulfill the obligations of the agreement, the mortgagor may
97 apply to the authority for emergency mortgage assistance payments
98 under sections 8-265cc to 8-265kk, inclusive, as amended by this act, by
99 the date thirty days after the date of any default in payment under the
100 agreement. The mortgagee shall not be required to send any additional
101 notice to the mortgagor other than the notice required under
102 subsection (a) of this section.

103 (d) No person receiving financial relief under sections 8-265cc to 8-
104 265kk, inclusive, as amended by this act, may file a defense,
105 counterclaim or set-off to any action for foreclosure of the mortgage for
106 which such financial relief was provided.

107 (e) Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by
108 this act, shall prevent a mortgagor from exercising rights that may
109 exist under the foreclosure mediation program and those rights may
110 be exercised concurrently with the rights afforded under sections 8-
111 265cc to 8-265kk, inclusive, as amended by this act, provided the
112 exercise of rights under the foreclosure mediation program shall not
113 cause a delay in the determination under subsection [(d)] (e) of section
114 8-265ff, as amended by this act. Nothing in sections 8-265cc to 8-265kk,
115 inclusive, as amended by this act, shall prevent a mortgagor from
116 applying or reapplying and being considered for emergency mortgage
117 assistance if such mortgagor is referred to the emergency mortgage
118 assistance program by the foreclosure mediation program.

119 Sec. 4. Section 8-265ff of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective October 1, 2009*):

121

122 (a) Any mortgagor may apply for emergency mortgage assistance
123 payments under sections 2-265cc to 8-265kk, inclusive, as amended by
124 this act, provided such mortgagor (1) has received notice of intent to
125 foreclose as provided in section 8-265ee, as amended by this act, or (2)
126 is sixty days or more delinquent on a mortgage. As part of the
127 application process, the authority may refer the applicant to a
128 counseling agency approved by the United States Department of
129 Housing and Urban Development.

130 ~~[(a)]~~ (b) If the mortgagor applies for emergency mortgage assistance
131 payments under sections 8-265cc to 8-265kk, inclusive, as amended by
132 this act, the authority shall, no later than eight business days after the
133 date of receipt of such application, notify all of the mortgagees listed
134 on the application holding a mortgage on the mortgagor's real
135 property.

136 ~~[(b)]~~ (c) The mortgagor shall apply for a loan on the form provided
137 by the authority. The mortgagor shall complete and sign the
138 application subject to the penalty for false statement under section 53a-
139 157b.

140 ~~[(c)]~~ (d) The mortgagor shall provide the authority with full
141 disclosure of all assets and liabilities, whether singly or jointly held,
142 and all household income regardless of source. For purposes of this
143 subsection, both of the following are included as assets:

144 (1) The sum of the household's savings and checking accounts,
145 market value of stocks, bonds and other securities, other capital
146 investments, pensions and retirement funds, personal property and
147 equity in real property including the subject mortgage property.
148 Income derived from family assets shall be considered as income.
149 Equity is the difference between the market value of the property and
150 the total outstanding principal of any loans secured by the property
151 and other liens.

152 (2) Lump-sum additions to family assets such as inheritances,
153 capital gains, insurance payments included under health, accident,
154 hazard or worker's compensation policies and settlements, verdicts or
155 awards for personal or property losses or transfer of assets without
156 consideration within one year of the time of application. Pending
157 claims for such items must be identified by the homeowner as
158 contingent assets.

159 [(d)] (e) The authority shall make a determination of eligibility for
160 emergency mortgage assistance payments by the date thirty calendar
161 days after the date of receipt of the mortgagor's application. During
162 said thirty-day period no judgment of strict foreclosure or any
163 judgment ordering foreclosure by sale shall be entered in any action
164 for the foreclosure of any mortgage any mortgagee holds on the
165 mortgagor's real property. No emergency mortgage assistance
166 payments may be provided unless the authority finds that:

167 (1) The real property securing the mortgage is a one-to-four family
168 owner-occupied residence, including, but not limited to, a single
169 family unit in a common interest community, is the principal residence
170 of the mortgagor and is located in this state;

171 (2) Payments, including amounts required to be paid into escrow or
172 impound accounts as reserves for taxes and insurance payments,
173 including mortgage insurance, or any combination of such payments,
174 owed by the mortgagor under any mortgage on such real property
175 have been contractually delinquent and the mortgagee has indicated to
176 the mortgagor its intention to foreclose;

177 (3) The mortgage is not insured by the Federal Housing
178 Administration under Title II of the National Housing Act, 12 USC
179 Section 1707 et seq.;

180 (4) The mortgagor is a resident of this state and is suffering financial
181 hardship which renders the mortgagor unable to correct the
182 delinquency or delinquencies within a reasonable time and make full
183 mortgage payments. For the purposes of subdivision (8) of this

184 subsection, in order to determine whether the financial hardship is due
185 to circumstances beyond the mortgagor's control, the authority may
186 consider information regarding the mortgagor's employment, credit
187 history and current and past household income, assets, total debt
188 service, net worth, eligibility for other types of assistance and any
189 other criteria or related factors it deems necessary and relevant;

190 (5) There is a reasonable prospect that the mortgagor will be able to
191 resume full mortgage payments on the original, modified or
192 refinanced mortgage within sixty months after the beginning of the
193 period in which emergency mortgage assistance payments are
194 provided in accordance with a written plan formulated or approved by
195 the authority and pay the mortgage in full in level monthly payments
196 of principal and interest, subject only to payment changes as provided
197 in the mortgage, by its maturity date;

198 (6) The mortgagor has applied to the authority for emergency
199 mortgage assistance payments on an application form prescribed by
200 the authority which includes a financial statement disclosing all assets
201 and liabilities of the mortgagor, whether singly or jointly held, and all
202 household income regardless of source;

203 (7) Based on the financial statement, the mortgagor has insufficient
204 household income or net worth to correct the delinquency or
205 delinquencies within a reasonable period of time and make full
206 mortgage payments;

207 (8) There is a reasonable prospect that the mortgagor, as determined
208 by the authority, will be able to repay the emergency mortgage
209 assistance within a reasonable amount of time under the terms of
210 section 8-265hh, including through a refinancing of the mortgage, and
211 the authority finds that, except for the current delinquency, the
212 mortgagor has had a favorable residential mortgage credit history for
213 the previous two years or period of ownership, whichever is less. For
214 the purposes of this subdivision, if a mortgagor has been more than
215 thirty days in arrears four or more times on a residential mortgage

216 within the previous year, the mortgagor shall be ineligible for
217 emergency mortgage assistance payments unless the mortgagor can
218 demonstrate that the prior delinquency was the result of financial
219 hardship due to circumstances beyond the mortgagor's control. In
220 making a determination under this subsection, the authority may
221 consider information regarding the structure of the mortgage, its
222 repayment schedule and any other relevant factors or criteria it deems
223 appropriate;

224 (9) The mortgagee is not otherwise prevented by law from
225 foreclosing upon the mortgage;

226 (10) The mortgagor has not mortgaged the real property for
227 commercial or business purposes;

228 (11) The mortgagor has not previously received emergency
229 mortgage assistance payments from the authority, provided a
230 mortgagor who has previously received such payments shall be
231 eligible to reapply if the mortgagor has reinstated the mortgage and
232 the mortgagor shall not have been delinquent for at least six
233 consecutive months immediately following such reinstatement;

234 (12) The mortgagor is not in default under the mortgage except for
235 the monetary delinquency referred to in subdivision (2) of this
236 subsection; and

237 (13) The mortgagor meets such other procedural requirements as
238 the authority may establish.

239 Sec. 5. Section 8-265rr of the general statutes is repealed and the
240 following is substituted in lieu thereof (*Effective from passage*):

241 (a) As used in this section, "authority" means the Connecticut
242 Housing Finance Authority created under section 8-244.

243 (b) The authority is authorized to continue to develop and
244 implement a program for home mortgage refinancing for homeowners
245 facing financial hardships affecting their ability to meet their monthly

246 mortgage obligation, including homeowners with adjustable rate
 247 mortgages as an additional purpose pursuant to the provisions of
 248 subdivision (32) of section 8-250. Such program shall be undertaken by
 249 the authority consistent with and subject to its contractual obligations
 250 to its bondholders in an initial amount of forty million dollars under
 251 terms and conditions determined by the authority.

252 Sec. 6. Subsection (d) of section 8-265gg of the general statutes is
 253 repealed and the following is substituted in lieu thereof (*Effective*
 254 *October 1, 2009*):

255 (d) The authority shall establish procedures for periodic review of
 256 the mortgagor's financial circumstances for the purpose of determining
 257 the necessity for continuation, termination or adjustment of the
 258 amount of emergency mortgage assistance payments or adjustment of
 259 the payments by the mortgagor pursuant to subsection (b) of this
 260 section. Payments shall be discontinued when the authority
 261 determines that, due to changes in the mortgagor's financial condition,
 262 the payments are no longer necessary in accordance with the standards
 263 contained in section 8-265ff, as amended by this act, or the expiration
 264 of the sixty-month period of a mortgagor eligibility for such payments
 265 under subsection [(d)] (e) of section 8-265ff, as amended by this act,
 266 whichever is sooner, and a foreclosure of the mortgagor's mortgage
 267 may, at any time thereafter, proceed without further restriction or
 268 requirement under sections 8-265cc to 8-265hh, inclusive, as amended
 269 by this act. The authority may adjust payments by the mortgagor
 270 pursuant to subsection (b) of this section based on a review under this
 271 subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	8-265cc(7)
Sec. 2	<i>July 1, 2009</i>	8-265dd(b)
Sec. 3	<i>July 1, 2009</i>	8-265ee
Sec. 4	<i>October 1, 2009</i>	8-265ff
Sec. 5	<i>from passage</i>	8-265rr

Sec. 6	October 1, 2009	8-265gg(d)
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Statement of Legislative Commissioners:

In Section 4, subsection (e)(5), after the words "full mortgage payments" in the first sentence, the phrase "on the original, modified or refinanced mortgage" was added for clarity.

BA *Joint Favorable Subst.*